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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,870	08/06/2003	Takayuki Yagi	03560.002432.1	7625

5514 7590 10/28/2008

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER	
VARGOT, MATHIEU D	

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
10/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/634,870	YAGI ET AL.	
	Examiner	Art Unit	
	Mathieu D. Vargot	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,7 and 9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,7 and 9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as set forth at page 6, line 22 through page 8, line 25 of the instant specification, and as exemplified by Japanese documents 6-27302 and 8-258,051 as set forth in the final rejection dated May 29, 2007.

It is noted that applicant now submits that the disclosure describing instant Figs. 1A-1D and Fig. 2 does not in fact constitute prior art, since these figures are the inventors' own work. However, it appears that the description of Figures 1A-1D and Fig. 2 in the instant specification—ie, page 7, line 7 through page 8—is in fact a discussion of what is occurring during the prior art process of electroplating to form a microlens mold. Of course, the exact details of what is set forth in the instant specification may not be found in the disclosures of the aforementioned and applied Japanese documents, but as can be reasonably ascertained, this disclosure is what is—or what applicant believes to be—actually happening in the prior art process. Hence, it is not clear that the comments concerning the prior art process would not be considered to be prior art. At the very least, they would constitute what applicant believes was prior art, or the basis of what prompted the instant invention. So saying, it is respectfully submitted that the disclosure at page 7, line 7 through page 8 in its entirety constitutes what was known in the art, or at least how applicant interpreted what was encompassed by the prior art of

Japanese documents 6-27302 and 8-258,051. Clearly, the process of the applied—and acknowledged -- prior art of Japanese -302 and -051 performs the same steps as the instant, but fails to recognize that the diameter of the opening should be within a certain range for optimal processing. However, it is submitted that optimizing a parameter in a known process is within the skill level of the art.

2.Applicant's arguments filed July 15, 2008 have been fully considered but they are not persuasive. Applicant submits that the discussion of the prior art section in the specification is in fact not prior art, since it details applicant's own earlier work on the subject. However, such is simply not persuasive. In essence, instant Figs. 1A-1D and Fig. 2 represent applicant's **description of what is occurring** in the prior art process, not necessarily any earlier work done by applicant. While it is true that the instant specification at page 7, line 7 through page 8 provides details concerning the electroplating, it is also rather apparent that these details are applicant's description of what is occurring in the prior art and what is wrong with the prior art process—see the last paragraph at the end of page 8 of the specification. Hence, it is believed that the description (ie, page 7, lines 7-24) now submitted by applicant to be his own work is in fact simply a description of the prior art in applicant's own words. While it may represent the **starting point** for the instant invention, it is not, as applicant now contends, his own earlier work. While applicant argues that the instant diameter range is not optimization, but rather critical and unexpected, such is not persuasive. The admitted prior art forms microlenses and microlens molds using the instant process, the only difference being that applicant now claims a specific range for the diameter of the

opening in the mask over which the electroplating is performed. However, one of ordinary skill in the art would have been readily able to ascertain the proper size of opening dependent on the size of microlens desired. In other words, routine experimentation would have allowed one of ordinary skill to determine the instant opening diameter range. Also, apparently the instant range only works for certain radii of curvatures. For instance, if one desired to make a microlens of radius of curvature of less than 28 microns, apparently such could not be done with the instant process. Ie, such a microlens would require an opening of 9.8 microns, which is less than the instant lower limit of 10 microns. Rather than discovering any critical dimensions, it is submitted that applicant has simply performed routine experimentation to determine the size of opening that allows for the most expeditious microlens mold formation through electroplating.

3.**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
October 24, 2008

/Mathieu D. Vargot/
Primary Examiner, Art Unit 1791